

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

The Honorable Henry Waxman
U.S. House of Representatives
Washington, D.C. 20515

JUL 09 2007

Dear Congressman Waxman:

Thank you for your letter regarding Thailand's issuance of compulsory licenses on patented medicines and its placement on USTR's Special 301 "Priority Watch List (PWL)."

The decision to elevate Thailand to the PWL this year was the result of extensive consideration within USTR and with our colleagues in other agencies. We carefully reviewed input from stakeholders, which catalogued a wide range of shortcomings regarding intellectual property protection and enforcement in Thailand. These concerns touched on all areas of Thailand's IPR regime and focused in particular on copyright and trademark infringement and systemic weaknesses in the enforcement of IPR. It is notable that Thailand was the subject of an unusually high number of public submissions to USTR in connection with this year's Special 301 process. These submissions were from a diverse array of companies and organizations representing a spectrum of copyright, trademark, and patent-related interests.

Most of the issues addressed in this year's Special 301 review of Thailand are of long-standing concern. While we have been engaging constructively with the Thai Government and making some progress to address our wide ranging concerns over the past few years, the political instability in Thailand over the past year and a half has set back considerably its efforts to improve intellectual property protection and enforcement. With little evidence of progress in addressing the worsening situation, we determined this year that it was necessary to signal our broad concerns through an elevation of Thailand to Special 301 PWL status.

The issue of compulsory licensing of medicines, while taken into consideration in the Special 301 process, was only one of a broad range of IPR-related concerns. Moreover, our Special 301 review did not require judgments regarding the relationship between Thailand's compulsory licensing actions and its obligations under the WTO TRIPS Agreement. The Special 301 statute directs USTR to evaluate "adequate and effective protection" of intellectual property rights, and it was in this context that we considered the compulsory licensing issue, and indeed all aspects of Thailand's protection and enforcement of IPR. Given that Thailand's compulsory licensing practices have evidenced weak due process and procedural transparency protections, a citation of these concerns was appropriate within an evaluation of "adequate and effective" protection of IPR in Thailand.

Your letter also refers to our review of the status of several U.S. imports from Thailand under the Generalized System of Preferences (GSP) program. On June 28, 2007, the President revoked the competitive need limitation (CNL) waiver for gold jewelry from Thailand effective July 1, 2007. This decision was consistent with new statutory provisions concerning product competitiveness and was made after extensive analysis and public input. The pertinent

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criteria were applied equally to all products from all countries that were subject to the statutory competitiveness thresholds added by Congress last December. Twenty-one products from eight countries were ultimately affected. The competitiveness of gold jewelry from Thailand obviated the need for consideration of IPR questions in making the decision about whether to revoke Thailand's GSP waiver for gold jewelry.

Having signaled our serious concerns about Thailand's IPR regime, we are now focused on constructively engaging with the Thai Government to develop a plan of action that will bring about broad improvements in IPR protection in that country.

Thank you again for your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan C. Schwab", written in a cursive style.

Susan C. Schwab